

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ISAIAH HOOD-BEY,

Plaintiff,

vs.

CHAD M. BROWN, Judge; KEITH KOLLASCH, Attorney; JESSICA WALKER, OMAHA POLICE DEPARTMENT, DMV, BEAU FINLEY, Judge; MARCELA KEIM, DEREK R. VAUGHN, GRANT A. FORSBERG, THOMAS K. HARMON, STATE OF NEBRASKA, DOUGLAS COUNTY CORRECTIONS, LACEE GERWICK, SADIE ABOOD, KAITLIN HAHN, HALL OF JUSTICE-DOUGLAS, OMAHA, NE, JADYN ANDERSON, DR. ALYSSA BISH, DHHS, PROJECT HARMONY, EMILY KIERSCHT, Teacher; MARIA RODEN, Principal; SUNNY SLOPE ELEMENTARY, OMAHA PUBLIC SCHOOLS, CHI IMANNUEL HEALTH, SCOTT, Officer; TANNER REISS, RAUN L. ELLEB, BENJAMIN WEIDNER, AUSTIN BECK, LUCIANO S. RIZZO, NOAH ZENDEJAS, and DOUGLAS E. JOHNSON,

Defendants.

8:24CV474

**ORDER ADDRESSING PLAINTIFF'S
AUTHORIZATION TO PROCEED IN
FORMA PAUPERIS**

Pro se plaintiff Isaiah Hood-Bey filed a notice of appeal in this case on June 22, 2025, but he did not pay the filing fee for an appeal. [Filing 82](#). Hood-Bey also filed a Motion to Proceed In Forma Pauperis on Appeal. [Filing 82-3](#). For the reasons below, Hood-Bey's Motion is denied, and he is not authorized to appeal in forma pauperis.

Under Federal Rule of Appellate Procedure 24, a party who was not previously permitted to proceed in forma pauperis in the district court action but who desires to appeal in forma pauperis must file a motion in the district court and attach an affidavit that does the following:

(A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;

(B) claims an entitlement to redress; and

(C) states the issues that the party intends to present on appeal.

[Fed. R. App. P. 24\(a\)\(1\)\(A\)–\(C\)](#). Although Hood-Bey has filed various documents along with his Motion to Proceed In Forma Pauperis on Appeal, none of these documents “show[] in the detail prescribed by Form 4 of the Appendix of Forms [his] inability to pay or to give security for fees and costs.” *Id.* Hood-Bey is thus ineligible for in forma pauperis status on appeal on this ground alone.

Hood-Bey is also ineligible to appeal in forma pauperis under [28 U.S.C. § 1915\(a\)](#) because his appeal is not taken in good faith. Section 1915(a)(3) states that “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” [28 U.S.C. § 1915\(a\)\(3\)](#). An appellant demonstrates good faith by seeking appellate review of any issue that is not frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962); *Ellis v. United States*, 356 U.S. 674, 674 (1958). An appeal is frivolous when none of the legal points are arguable on their merit. *See Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Misischia v. St. John’s Mercy Health Sys.*, 457 F.3d 800, 806 (8th Cir. 2006). And while such a finding should be made only in extreme circumstances, it is proper when a party attempts to appeal from an order that is clearly not appealable. *See Cohen v. Curtis Publ’g Co.*, 333 F.2d 974, 978–79 (8th Cir. 1964).

Here, Hood-Bey seeks to appeal from the Court’s April 22, 2025, Memorandum and Order dismissing most but not all of Hood-Bey’s claims, [Filing 73](#), and the Court’s June 3, 2025, Memorandum and Order denying reconsideration of a different order dismissing 18 unserved defendants, [Filing 81](#). [Filing 82-3 at 1](#). Both orders are interlocutory orders that are not “final decisions” capable of appeal under [28 U.S.C. § 1291](#). *See Mathers v. Wright*, 636 F.3d 396, 398

(8th Cir. 2011) (“An order dismissing some but not all claims is not final and not immediately appealable.”); *Bullock v. Baptist Mem’l Hosp.*, 817 F.2d 58, 59 (8th Cir. 1987) (“An order dismissing a complaint as to fewer than all defendants is of course not a final order within the meaning of § 1291 of the Judicial Code.”). Moreover, neither order falls within the narrow class of appealable interlocutory orders under 28 U.S.C. § 1292(a).

Hood-Bey has also failed to argue—much less sufficiently demonstrate—that this case “is an exceptional one in which immediate appeal is warranted” under 28 U.S.C. § 1292(b). *White v. Nix*, 43 F.3d 374, 376 (8th Cir. 1994). Pursuant to § 1292(b), an order that is not otherwise appealable will be certified for appeal only when the district court is “of the opinion that (1) the order involves a controlling question of law; (2) there is substantial ground for difference of opinion; and (3) certification will materially advance the ultimate termination of the litigation.” *Id.* at 377 (internal quotation marks omitted) (quoting *Paschall v. Kansas City Star Co.*, 605 F.2d 403, 406 (8th Cir. 1979)). Even if Hood-Bey had argued for certification under § 1292(b), the Court concludes that this case is not an “exceptional [one] where a decision on appeal may avoid protracted and expensive litigation, as in antitrust and similar protracted cases.” *White*, 43 F.3d at 376 (internal quotation marks and citations omitted). Neither order that Hood-Bey seeks to appeal involves a controlling question of law as to which there is a substantial ground for difference of opinion, and an immediate appeal would not materially advance the termination of this litigation. Additionally, Hood-Bey has not even attempted to argue that certification for appeal would be appropriate on any other grounds, such as under *Federal Rule of Civil Procedure* 54(b), which states that “[w]hen an action presents more than one claim for relief . . . or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay.” *Fed.*

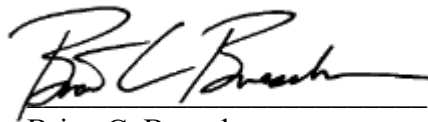
R. Civ. P. 54(b). Regardless, the Court declines to find that there is no just reason for delay in this case.

Because Hood-Bey is attempting to appeal from orders that are not appealable, the Court certifies that his appeal is not taken in good faith. Accordingly,

IT IS ORDERED that Hood-Bey's Motion to Proceed In Forma Pauperis on Appeal, [Filing 82-3](#), is denied, and Hood-Bey is not authorized to appeal in forma pauperis.

Dated this 24th day of June, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge